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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,401	02/18/2004	David W. Baarman	18716.85676-001	1869

28440 7590 11/16/2004

WARNER, NORCROSS & JUDD
IN RE: ALTICOR INC.
INTELLECTUAL PROPERTY GROUP
111 LYON STREET, N. W. STE 900
GRAND RAPIDS, MI 49503-2489

EXAMINER	
TRAN, THUY V	

ART UNIT	PAPER NUMBER
2821	

DATE MAILED: 11/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/781,401	BAARMAN, DAVID W.	
	Examiner	Art Unit	
	Thuy V. Tran	2821	AU

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *03* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 February 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-47* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-43 and 45-47* is/are rejected.

7)☒ Claim(s) *44* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 February 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *2/18/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

This is a response to the Applicant's filing on 02/18/2004. In virtue of this filing, claims 1-47 are currently presented in the instant application.

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 02/18/2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification Objections

2. The abstract of the disclosure is objected to because of the following informality:

Page 37 (of the disclosure), line 7, "The" should be changed to --the--.

Correction is required. See MPEP § 608.01(b).

3. The disclosure is objected to because of the following informalities:

Page 1, line 4, --which is now U.S. Patent No. 6,731,071,-- should be inserted between "," (third occurrence) and "which" (second occurrence).

Appropriate correction is required.

Double Patenting Rejections

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-12 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8 of U.S. Patent No. 6,731,071. Although the conflicting claims are not identical, they are not patentably distinct from each other because (1) whether the reactance of the capacitor is selected to be substantially equal to or slightly less than the sum of the impedance of the lamp and the reactance of the inductive secondary or to be substantially equal to or slightly less than the sum of the impedance of the lamp and the secondary reactance of the inductive primary, the capacitor, the lamp, and the inductive secondary operate substantially in resonance at operating temperature, and (2) the light emitting diode has been commonly employed as a lamp. Therefore, to define the value of the reactance of the capacitor of the claims 1-8 of the U.S. Patent No. 6,731,071 as substantially equal to or slightly less than the sum of the impedance of the lamp and the reactance of the inductive secondary so as to operate the lamp assembly at resonance and to employ a light emitting diode as the lamp of claims 1-8 of the U.S. Patent No. 6,731,071 depending on a particular application or environment of use would have been deemed obvious to an artisan skilled in the art of power electronics.

6. Claims 13-25 and 45-47 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 9-18 of U.S. Patent No. 6,731,071. Although the conflicting claims are not identical, they are not patentably distinct from each other because it is apparent that the reactance of the inductive secondary and the impedance of the lamp are countable to defining the operating frequency, and as such, they are defined as operating reactance and operating impedance, respectively. Therefore, defining the reactance of the inductive secondary and the impedance of the lamp of the invention of claims 9-18 of U.S.

Patent No. 6,731,071 as an operating reactance and an operating impedance, respectively, would have been clearly within a preview of a person skilled in the art.

7. Claims 26-30 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 19-21 of U.S. Patent No. 6,731,071. Although the conflicting claims are not identical, they are not patentably distinct from each other because the orientation of the magnetic field with respect to the magnetic field powering the inductive secondary to which the magnetic starter switch is in response and the connection of the electrical connector with respect to the inductive secondary and the first electrode of the claimed invention of claims 26-30 and those of the invention of claims 19-21 of U.S. Patent 6,731,071 would obviously produce the same result.

8. Claims 31-32 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 22-23 of U.S. Patent No. 6,731,071. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed limitation "an electrical connector" of claims 31-32 would have been understood as "means for electrically connecting" taught in the invention of claims 22-23 of the U.S. Patent 6,731,071 to a person skilled in the art.

9. Claims 33-35 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 24-26 of U.S. Patent No. 6,731,071. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed limitation "a starter" of claims 33-35 would have been understood as "a starter means" taught in the invention of claims 24-26 of the U.S. Patent 6,731,071 to a person skilled in the art.

10. Claims 36-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 27-29 of U.S. Patent No. 6,731,071. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed limitation "a first remotely operable switch and a second remotely operable switch" of claims 36-38 would have been understood as "first and second remotely operable switch means" taught in the invention of claims 27-29 of the U.S. Patent 6,731,071 to a person skilled in the art.

11. Claims 42-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 30-31 of U.S. Patent No. 6,731,071. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed limitation "a first switch and a second switch" of claims 42-43 would have been understood as "first and second remotely operable switch means" taught in the invention of claims 27-29 of the U.S. Patent 6,731,071 to a person skilled in the art.

Allowable Subject Matter

12. Claim 44 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter:

Prior art fails to disclose or fairly suggest an inductive powered electric-discharge lamp assembly wherein the lamp has an impedance, a combined reactance of the first secondary and the second secondary being substantially equal to the impedance of the lamp, a combined reactance of the first capacitor and the second capacitor being substantially equal to or slightly

less than the impedance of the lamp and the combined reactance of the first secondary and the second secondary, in combination with the remaining claimed limitations as called for in claim 44.

Citation of relevant prior art

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Prior art Boys et al. (U.S. Patent No. 6,459,218) discloses an inductive powered unit.

Prior art Lovell et al. (U.S. Patent No. 6,456,015) discloses an inductive-resistive fluorescent apparatus and method.

Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy V. Tran whose telephone number is (571) 272-1828. The examiner can normally be reached on M-F (8:00 AM -5:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Don Wong can be reached on (571) 272-1834. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Thuy V. Tran
Primary Examiner
Art Unit 2821

11/13/2004